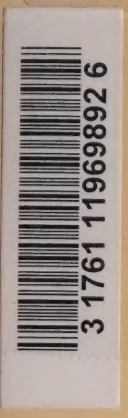
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PUBLIC INQUIRY
INTO
RONTO DEVELOPMENT COMPANY

Commissioner, The Honourable J. David Cromarty
1977

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P R O C L A M A T I O N

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

TO: The Honourable Mr. Justice
John David Cromarty
Toronto

G R E E T I N G :

WHEREAS in and by an Act entitled "The Public Inquiries Act, 1971", it is enacted that whenever Our Lieutenant Governor in Council deems it expedient to cause inquiry to be made concerning any matter connected with or affecting the good government of Ontario or the conduct of any part of the public business thereof or of the administration of justice therein and such inquiry is not regulated by any special law, she may, by commission appoint one or more persons to conduct such inquiry and may confer the power of summoning any person and requiring him to give evidence on oath and to produce such documents and things as the commissioner or commissioners deems requisite for the full investigation of the matters into which he or they are appointed to examine;

AND WHEREAS Our Lieutenant Governor in Council of Our Province of Ontario deems it expedient to cause inquiry to be made concerning the matters hereinafter mentioned;

NOW KNOW Ye that We, having and reposing full trust and confidence in you, the said Mr. Justice John David Cromarty, of Toronto, DO HEREBY APPOINT you to be Our sole Commissioner to inquire as to whether any undue or improper influence was brought to bear, from any source, or whether there was any other impropriety of any kind in respect of the decision by the Government to grant an exemption, under the provisions of The Land Speculation Tax Act, 1974, to the partnership carrying on business as Ronto Development Company and to report thereon and to make such recommendations to the Lieutenant Governor in Council as the Commissioner may deem fit.

AND WE DO HEREBY ORDER that Part III of the said Act entitled "The Public Inquiries Act, 1971" shall apply to the aforementioned Inquiry;

AND WE DO HEREBY FURTHER ORDER that all Our ministries, boards, commissions, agencies and committees shall assist you, Our said Commissioner, to the fullest extent and that, in order to carry out your duties and functions, you shall have the authority to engage such counsel, investigators and other staff as you deem proper, at the rate of remuneration and reimbursement to be approved by the Management Board of Cabinet;

TO HAVE, HOLD AND ENJOY the said Office and authority of Commissioner for and during the pleasure of Our Lieutenant Governor in Council for Our Province of Ontario.

IN TESTIMONY WHEREOF We have caused these Our Letters to be made Patent, and the Great Seal of Our Province of Ontario to be hereunto affixed.

WITNESS:

THE HONOURABLE PAULINE M. McGIBBON,
An Officer of the Order of Canada,
Bachelor of Arts,
Doctor of Laws, Doctor of University,
Bachelor of Applied Arts (Theatre),
Honorary Fellow Royal College of Physicians and Surgeons (Canada),

LIEUTENANT GOVERNOR OF OUR PROVINCE OF ONTARIO,

at Our City of Toronto in Our said Province, this twentieth day of April in the year of Our Lord one thousand nine hundred and seventy-seven and in the twenty-sixth year of Our Reign.

BY COMMAND

MINISTER OF GOVERNMENT SERVICES

Dated April 20 *A.D.* 1977

The Public Inquiries Act, 1971 "The Honourable Mr. Justice John David Cromarty, Toronto"

Recorded this thirteenth

day of May, A.D. 1977

As Number 78

In Liber 4

Manager,
Official Documents

CO[illegible]SION ON
RONTO DEVELOPMENT COMPANY
Date MAY 18 19[illegible]
Exhibit No. 1

Registrar

Ontario

Executive Council

O.C. 1182/77

Copy of an Order-in-Council approved by Her Honour the Lieutenant Governor, dated the 20th day of April, A.D. 1977.

Upon the recommendation of the Honourable the Premier and President of the Council, the Committee of Council advise that pursuant to the provisions of The Public Inquiries Act, 1971, a Commission be issued appointing

The Honourable Mr. Justice John David Cromarty, Toronto

to inquire as to whether any undue or improper influence was brought to bear, from any source, or whether there was any other impropriety of any kind in respect of the decision by the Government to grant an exemption, under the provisions of The Land Speculation Tax Act, 1974, to the partnership carrying on business as Ronto Development Company and to report thereon and to make such recommendations to the Lieutenant Governor in Council as he may deem fit.

The Committee further advise that all Government Ministries, boards, agencies and commissions shall assist the said Commissioner to the fullest extent in order that he may carry out his duties and functions and that he shall

have the power and authority to engage counsel, expert technical advisors, investigators and other staff as he deems proper at rates of remuneration and reimbursement to be approved by the Management Board of Cabinet.

And the Committee further advise that Part III of the said Act be declared to apply to the aforementioned inquiry and Commission.

Certified,

Deputy Clerk, Executive Council.



Ontario

The Hon. Mr. Justice J. David Cromarty
Chairman

J. Roderick Barr, Q.C.
Counsel

Nicholson D. McRae, Q.C.
Associate Counsel

L. J. Pelissero
Executive Secretary

Public Inquiry
Ronto Development Company

Room 322
145 Queen Street West
Toronto Ontario
M5H 2N9

TO HER HONOUR THE LIEUTENANT-GOVERNOR OF
THE PROVINCE OF ONTARIO

May It Please Your Honour:

Having been appointed by Royal Commission to perform the duties set out in the Commission and the Order in Council authorizing it, I submit to Your Honour my Report.

David Cromarty

J. David Cromarty
Commissioner

July, 1977


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FOREWARD

Upon being named a Commissioner I made the following appointments:-

Counsel	-	J. Roderick Barr, Q.C.
Associate Counsel	-	Nicholson D. McRae, Q.C.
Executive Secretary	-	Detective Inspector L.J. Pelissero

Adequate accommodation was obtained at 145 Queen Street West and advertisements were placed in the three Toronto newspapers and the Brantford Expositor:-

May 12, 1977	-	Toronto Star
May 13, 1977	-	Toronto Globe and Mail
May 13, 1977	-	Toronto Sun
May 13, 1977	-	Brantford Expositor

announcing the formation of the Commission and giving the date and time of the first hearing which was an organization meeting held on May 18, 1977. This information was also given to the executive offices of the three parties in the Legislature by the Executive Secretary of the Commission. After the first meeting he again telephoned them to advise them of the time and date on which the Commission would start hearing evidence. The Commission then sat on May 30, June 7, 8, 9, 10, 13 and 14, 1977.

A Judge appointed by the Lieutenant-Governor in Council of a province is, under the Judges Act R.S.C., 1970, Chapter J-1, Section 37, authorized to act "as commissioner, arbitrator, adjudicator, referee, conciliator or mediator on any commission or on any inquiry" if "he is thereunto appointed or so authorized by the Lieutenant-Governor in Council of the province." However, a Judge should not be asked nor undertake to conduct any commission which would require him to investigate or inquire into the actual exercise of a discretion by

a Minister of the Crown or, indeed, as to any purely political issue. From my terms of reference it is made perfectly clear that I was not required to investigate such matters and I instructed counsel that the limits of my inquiry were to be strictly observed.

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CHAPTER I

THE ACQUISITION OF THE LAND AND STEPS TAKEN IN ITS DEVELOPMENT

Ronto Development Company was a partnership formed by Cuttyco Corporation Limited, S. Donnenfield Construction Limited and Ronto Development Limited in June of 1971 to buy serviced lands and build new houses for sale with the prospect of doing development work later on as business progressed. For its first two years it bought only lots that were already serviced, built houses and sold them.

The principals of Cuttyco were Harry Solomon and his son Jack. The principal of S. Donnenfield Construction Limited was Samuel Z. Donnenfield and the principal of Ronto Development Limited was Ronald Todgham.

In its first two years Ronto built several hundred houses, mainly in Kitchener, with some in Toronto, Scarborough, Bowmanville and Orangeville. By 1973 it found the price of serviced lots was rising very rapidly and the partners decided that it would be beneficial to buy raw land so that they could develop serviced lots for their own use and, in addition, sell some of the lots so developed to other builders. To this end the partners retained the services of W. Reimer Limited, a real estate agent carrying on business in Waterloo who had a considerable knowledge of central and southwestern Ontario.

Ronto's instructions to Mr. Reimer were to find sizable parcels of land on the fringe of urban areas which could be serviced with municipal water and sewer and that were close to job potentials for future residents. A top price of about $6,000 per acre was set. Shortly after retaining him, Mr. Reimer advised

them of 338 acres in the Township of Brantford owned by the Pate family on the northeastern fringe of the city of Brantford.

Negotiations were entered into with the Pate family and, by September 18, 1973, offers to purchase had been drafted and accepted. They provided for an average price of $4,500 per acre and allowed for a lease to Mr. James Wilson Pate of the lands for farming purposes until Ronto needed them for development.

At the time of purchase, the Ronto partners were not aware that the city of Brantford was planning to annex certain lands in the area where they had purchased. The city itself owned lands here to be used for its southern access road which was contemplated as an expressway. They did, however, know that there was a parcel of land owned by the city nearby which was being developed for industrial use and that city sewer and water lines existed close by their property. Annexation would increase the value of the land which they had bought.

In September of 1973, Ronto brought into their employment Mr. Ronald Forrest, a very experienced city planner. He at once began working on ideas for the development of the 338 acres, the offers for which had not yet been accepted. He put in train the work necessary to produce a proposed plan of subdivision, to gain approval from the city, obtain an amendment to the official plan which had to be extended to cover these recently annexed lands, to effect a change in the zoning which, prior to annexation, had been agricultural and generally do everything he could to advance the development of the land.

The two municipalities passed the necessary annexation by-laws and, after the usual steps, Ontario Municipal Board approval was granted in July of 1974 with the annexation to be effective on October 1, 1974.

After Mr. Forrest was hired by Ronto, it retained Paterson Planning and

Research Limited to make an analysis of the whole city including its growth patterns. As a result of this it was found among other things that Massey-Ferguson and Harding Carpets both planned substantial expansions. Regular meetings were held with the various city departments especially those involved with engineering and planning.

Because of the large number of officials and bodies which have to be consulted, the obtaining of approval of an amendment to the official plan is a slow process but it was eventually obtained from the Minister in September of 1975. In the course of obtaining this approval, Ronto assured the city council that they would use their best endeavours to produce housing within a price range of approximately $32,500 per unit to a top of $49,000 per unit covering various types of housing. It may be of interest to note that houses in this subdivision are today being sold as low as $32,900, although there seem to be complaints as to the quality of construction.

During this period there were hard negotiations with the city and other bodies with respect to school sites, additional lands for parks, the oversizing of services and other like matters all of which were eventually resolved, usually by both sides giving a little. Work was also going on leading to the necessary amendment to the zoning by-law which is, of course, the document that provides the detail for the very general provisions of the official plan.

In August of 1974, R.V. Anderson Associates Limited, consulting engineers and planners, were retained as consulting engineers on the proposed project and instructed to prepare a draft plan of subdivision for submission to the Minister of Housing.

Once a draft subdivision plan is prepared and approved by the municipality, it must be sent to a multitude of interested boards and bodies as well as the Minister. It is also a slow process involving a great deal of work and

considerable expense. After being sent to the Minister draft approval was obtained in September of 1975. At this stage the surveying begins again, the centre lines of all the roads are staked and invert levels for sewers and water lines are established showing their depth and location in relation to the streets. The lot centres are also staked and soil testing is done. All of this engineering work had been substantially completed by October of 1975, at which time R.V. Anderson Associates Limited, as project managers, invited nine companies to tender on the installation of sewer and water lines. Four bids were received, one of which was from George Wimpey Canada Limited.

During this period work was also being done on the amendment to the zoning by-law which would rezone the lands for residential and related uses in conformity with the policies expressed in the official plan. This was approved by the city on February 16, 1976 and by the Ontario Municipal Board on March 25, 1976.

A concomitant to the plan of subdivision is the preparation, approval and execution of the subdivision agreement. This is a bulky document dealing with the obligations of the parties in great detail. Its preparation also called for a large number of meetings and negotiations with city officials, the officials of associated boards, the completion of engineering drawings and approval by the Ministry of the Environment. It was executed by Ronto and ratified by city by-law #67/76 on April 26, 1976 and, to make Wimpey a direct covenantor, it was later executed by them and this subsequent execution was ratified by city by-law #82/76 on June 7, 1976.

CHAPTER II

DEALINGS WITH WIMPEY

In the summer of 1975 Ronto was seeking substantially increased accommodation from its banker to cover the expense of installation of services. The bank was something less than enthusiastic about this proposal, the dealings with the bank are dealt with in the next chapter. George Wimpey Canada Limited, is a wholly owned subsidiary of a company incorporated in the United Kingdom, George Wimpey and Company Limited, which has world-wide interests. It operates in various parts of Canada under other names as well.

In the spring of 1975 Mr.G.R. Courtvriend, Wimpey's regional manager in Kitchener, had been in touch with Ronto with respect to the servicing work which it was then apparent would be undertaken in the fairly near future. It was Wimpey's policy to seek out developers and attempt to negotiate contracts with them early on rather than wait until tenders were called. At this time Wimpey may also have expressed an interest in buying some of the serviced lots in connection with their own building programme.

Mr. Courtvriend was not available to give evidence but other company officials were called. Some of the early negotiations were not fully recorded, however, it appears that various types of contracts were discussed and in these discussions there was some reference to the possibility of Wimpey doing the servicing work and then taking serviced lots as payment. By September 3, negotiations had reached the point where Wimpey wrote a letter confirming that they were interested in the property and would consider either a servicing contract with payment as outlined above or an offer for the entire property.

Some time prior to this, Mr. Ernest Goodman, a real estate agent, was called in by Ronto to discuss the selling of its serviced lots to builders, and he was also brought into the discussions with respect to a purchase by Wimpey.

Several draft agreements were prepared by Wimpey's solicitors, Messrs. Blake Cassels and Graydon the last of which, dated December 18, 1975, proposed a form of co-ownership. Under this agreement, Wimpey would buy the property for $21,653,625 allocated $12,000,000 to land and $9,653,625 to the managing, servicing and developing of the lands. It also provided that Ronto would install the services, employing Wimpey to do the servicing work and eventually paying for that work the sum of $9,653,625 so that, in effect, they were selling the land in its then state of development for the sum of $12,000,000. Suddenly, and without warning, in January of 1976, Wimpey refused to complete the contract which Ronto at that time thought was within hours of being signed.

Throughout this period the question of Ronto's liability under The Land Speculation Tax Act was under active consideration. Messrs. Goodman and Goodman had been consulted and were of the opinion that an early and outright sale of the lands to Wimpey would undoubtedly attract tax. After the transaction had been refined and called for the sale of lots only after they had been serviced so that building permits would be available they expressed the opinion that the transaction so structured would not attract tax liability under that Act. A confirmatory opinion was obtained from Messrs. Goodman and Carr, a firm with an outstanding reputation in the taxation field.

Wimpey's refusal was reported to Mr. Ernest Goodman, the real estate agent, and he immediately got in touch with their officials and eventually an offer to purchase the whole of the lands in their present state for the sum of $12,000,000 was submitted to Ronto. This offer was subject to two conditions:-

Conditions for the Benefit of Vendor

11) The obligation of the Vendor under the purchase contract is subject to the condition for the sole benefit of the Vendor and which may be waived by it in writing that within 60 days after the acceptance of this offer the Vendor shall have received a ruling or written opinion or written notice from the Ministry of Revenue satisfactory to Counsel for the Vendor that the sale of the lands in accordance with the terms and conditions provided herein is exempt or has been exempted from taxation under the provisions of The Land Speculation Tax Act.

If such condition is not met and is not waived by the Vendor, the purchase contract shall terminate and the deposit shall be returned to the Purchaser forthwith without interest. The Vendor shall make all reasonable efforts to satisfy the condition within the time permitted therefor.

and

Undertakings to the Ministry of Revenue

24) In connection with the Vendor's application to the Ministry of Revenue pursuant to paragraph 11 for an exemption from the provisions of The Land Speculation Tax Act, the Purchaser shall execute and deliver such undertakings and agreements as may be reasonably required to satisfy the Ministry of Revenue that the Purchaser shall not part with the lands until they shall have been developed and serviced in substantial conformity with the draft plan as amended from time to time and in accordance with subdivision agreements entered into

with the City of Brantford to the stage where building permits would be available to purchasers from the Purchaser.

Mr. Carl Solomon reviewed this new proposal and expressed the opinion that Ronto now had a good arguable basis for relief from payment of The Land Speculation Tax Act. However, he again preferred to take the advice of someone more expert in the taxation field and Mr. E.A. Goodman's opinion was again sought. Upon being advised of the terms and conditions in the Agreement and being brought completely up to date on all of the negotiations and of the work continuing to be done by Ronto with respect to the development of the property he confirmed Mr. Carl Solomon's opinion. Ronto then accepted the offer on January 31, 1976 and the sale to Wimpey was closed on May 12, 1976.

CHAPTER III

DEALINGS WITH THE BANK

Ronto did its banking business with the Royal Bank of Canada at the Main Branch of the bank in Toronto. By October 12, 1973, Ronto's line of credit at the bank was $1,250,000 which was guaranteed by each of the corporate partners who had assigned their respective receivables. Each of the three principals, Mr. Ronald Todgham, Mr. Harry Solomon and Mr. Samuel Donnenfield had given joint and several personal guarantees to the full extent of Ronto's indebtedness. These guarantees were unsecured. The advances covered certain expenses of Ronto's wholly owned subsidiary, Ready Made Homes Limited, most of the downpayment of some $300,000 to the Pate family and operating expenses for its various properties. In addition to the financial report of Ronto itself, the bank had been provided with financial statements of each of the corporate partners and of the individual owners of those companies.

In the summer of 1975, Mr. Jack Solomon had approached the bank to obtain further financing because of the impending very expensive servicing work which he projected would require a peak loan of about $3,200,000. The bank did not share Ronto's enthusiasm for the Brantford project and felt that the financial obligations which Ronto proposed to undertake were simply too large for its limited cash resources. The bank was told of Wimpey's interest and were given a copy of its letter of September 3 in which it set out this interest in writing. The bank stated that it was prepared to consider further financing only upon very stringent terms, the most important of which was the requirement that sufficient lots be exchanged with a contractor as payment for the

installation of services, so that the need for bank loans would be substantially reduced. Apparently certain funds had been withdrawn from Ronto by the principals and the bank required the return of these funds. It also required a higher interest rate and evidence of other financing for the building of houses from other banks and also a collateral mortgage on the whole of the Brantford lands.

After a number of meetings the only requirement from which they would depart was that of a mortgage on the whole of the lands to secure the loan. They were, however, prepared to carry on their existing loan for another year. Acting on this information from the bank, Mr. Jack Solomon sought and obtained commitments from the Bank of Nova Scotia and the Canadian Imperial Bank of Commerce for builders' mortgages totalling $2,300,00 each, together with bridge financing of $500,000.

The servicing costs on such loans would be very large and could only be paid out of the sale of lots to other builders and the erection and sale by Ronto of houses on its own lots. Ronto found that even with such other financing as they were able to arrange, the Royal Bank's terms were still unduly onerous.

Some time shortly thereafter, on December 26, 1975, Ronald Todgham died quite unexpectedly after a short illness. While Mrs. Todgham and her sons knew that Mr. Todgham was involved in a real estate development company they were unaware of the very large liabilities which he had undertaken on behalf of Ronto. The total potential liability of $1,650,000 was approximately double the total value of Mr. Todgham's estate excluding his interest in the Brantford property. Mrs. Todgham and her sons advised the other partners that they were not prepared to enlarge these guarantees, that they had no interest in continuing in a real estate development and they wanted the estate relieved of its obligation and potential liability as quickly as possible.

In April of 1976 the partnership required more funds and, under the circumstances then existing, the bank agreed to accommodate them to the extent of $500,000 with additional guarantees. These were signed by H.L. Solomon and Samuel Z. Donnenfield and, while a place for a signature on behalf of the estate of R.W. Todgham was provided, the executors of the estate were unwilling to sign. Even though during his lifetime, the bank regarded the covenant of Mr. Todgham as much the most important of the three which they held, they accepted the two signatures. After the sale of the property, the indebtedness to the bank was immediately liquidated.

CHAPTER IV

THE ACT AND THE POLICY OF THE GOVERNMENT

The Act which imposed a tax on land speculation is The Land Speculation Tax Act, 1974, Statutes of Ontario, 1974, chapter 17 as amended by chapters 107 and 121 of that year. The most important sections affecting this matter are;

> 2.— (1) Subject to section 4, where, after the 9th day of April, 1974, any disposition of designated land occurs, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land with respect to which such disposition occurs a tax computed at the rate of 20 per cent of the taxable value of designated land with respect to which such disposition occurs. 1974, c.17, s.2(1); 1974, c.107, s.1.
>
> (2) Not applicable
>
> (3) The tax is payable by the transferor of any designated land disposed of by him and shall be paid at the time of the disposition of the designated land, and if not then paid, the tax bears interest from the later of ninety days after the disposition or the date of completion of the transaction of which the disposition is a part at the rate of 9 per cent per annum until a different rate is prescribed. 1974, c.17, s.2(3); 1974, c.121, s.2(1).
>
> (4) Not applicable
>
> (5) Not applicable
>
> 4. No designated land is liable to the tax imposed by subsection 1 of section 2,
>
> (k) when the designated land at the time of its disposition, as defined in this clause,
>
> (i) has not previously been disposed of by a disposition for which exemption was claimed under this clause or under section 21,
>
> (ii) is included in a registered plan of subdivision, is the subject-matter of a consent obtained under section 29 of The Planning Act, or is owned by the transferor and immediately abuts on designated land that was owned

by the transferor and that was the subject-matter of such a consent, and

(iii) has, at the expense of the transferor, been,

(A) Not applicable

(B) Not applicable

(C) Not applicable

(D) in all cases, wholly or partly serviced to the extent that construction of a building on the designated land disposed of could lawfully be commenced and, where applicable, to the further extent that a permit authorized by a by-law passed pursuant to subsection 1 of section 38 of The Planning Act by the municipality within which the designated land disposed of is situated, or a permit authorized by section 17 of The Public Lands Act, would be available,

23.(2) - The Lieutenant-Governor in Council may make regulations,

(a) exempting from tax any designated land or class of designated land or exempting from tax any designated land with respect to which any disposition or class of disposition occurs;

(k) providing for relaxing the strictness of this Act relative to the incidence of tax hereunder in special circumstances where, without such relaxation, inconvenience or hardship might result or the development of designated land might be impeded;

It is common ground that Ronto did not qualify under section 4(k) and that its application for exemption was made under section 23 which required the exercise of ministerial discretion.

The policy of the Government may be found in several places. The statement made by The Honourable John White, Treasurer of Ontario on the 1974 budget contains the following:

Mr. Speaker, I should now like to describe three important new measures to restrain inflation. They are designed to stabilize land prices, encourage Canadian ownership of Ontario real estate, and freeze public transit fares.

One cause of present inflation is the rapidly escalating price of land. Some increase in land prices is to be expected because of the steady process of urbanization and the need to accommodate 100,000 new families in Ontario each year. There is no doubt however that speculation both by Canadian residents and by non-residents bids up prices artificially, increases the cost of housing and generates unwarranted windfall gains.

Therefore, Mr. Speaker, I am proposing a new tax to discourage this speculative activity. This tax has two objectives:

- to reduce the escalation of land and housing prices; and

- to recover for the public a major share of windfall gains from land speculation.

The land speculation tax will go into effect at midnight tonight. It will impose an additional 50 per cent tax on the increase in value realized on the sale of designated land. Over and above this tax, normal personal and corporate income taxes will apply. The speculation tax is designed to bear most heavily on owners of land and properties which are purchased and resold without any real value being added.

The Government does not wish to discourage development and construction of industrial, commercial or residential buildings. Accordingly, exemptions will be provided in the following instances:

- sale of property used for commercial and industrial purposes including tourist establishments will be exempt;

- sale of property where the vendor has complied with a subdivision agreement and constructed residential or commercial premises will be exempt; and

- sale of property where the vendor has purchased serviced land and constructed residential or commercial premises will be exempt.

The following features will also be incorporated into the land speculation tax:

- acquisition cost will be the fair market value on April 9, or the actual cost if purchased after April 9, 1974;

- in determining the increase in value after April 9,

capital improvement costs and reasonable carrying charges not exceeding 10 per cent per annum will be allowed as eligible deductions. These eligible deductions also apply to family farms; and

- the land speculation tax will not apply in the case of expropriations, sales to all governments and agencies thereof, nor to Canadian resource properties in Ontario.

The Government of Ontario recognizes that strong measures are required to curb the excessive land speculation now occurring. We are determined to proceed with firm action. At the same time we recognize that this is a complex matter and unforeseen problems may emerge in administering this new tax. Thus during the first year of operation I envisage a series of amendments and refinements to the land speculation tax bill. This bill will be tabled immediately after this address by my colleague the Minister of Revenue.

By introducing this land speculation tax I hope to deflate or at least slow down land price increases, and thereby contain costs for housing and other development projects in Ontario. The success of this speculation tax will be inversely related to its revenue yield — the smaller the revenues the greater the desired impact on curbing speculation. For this fiscal year the revenue yield from the speculation tax can be little more than a rough estimate, which I have set at $25 million in keeping with my optimism that the tax will indeed produce the anti-speculation result the Government is seeking.

The determination of the date of the disposition from the Pates to Ronto is vital to a determination of the amount of tax which the transaction might have attracted. As first drafted and submitted to the Legislature after the Budget resolutions, the applicable parts of section 2 in chapter 17 were worded as follows:

2.- (1) Subject to section 4, where, after the 9th day of April, 1974, any disposition of designated land occurs, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land with respect to which such disposition occurs a tax computed at the rate of 50 per cent of the taxable value of designated land with respect to which such disposition occurs.

(2) Not applicable

(3) The tax is payable by the transferor of any designated land disposed of by him and shall be paid at the time of the disposition of the designated land, and if not then paid, the tax bears interest at the rate of 9 per cent per annum until a different rate is prescribed.

(4) The tax is payable to the Treasurer and shall be remitted to the Minister by the person responsible for its payment.

Recommendations to the Minister of Revenue relating to The Land Speculation Tax Act were submitted by the Minister's Advisory Committee on July 26, 1974, and those recommendations contained the following:

Time of disposition:

43. RECOMMENDATION: That for the purposes of the LSTA and more specifically Section 2(3) thereof, it should be made abundantly clear when in fact the disposition occurs. A disposition should arise only when the acquirer takes possession of the designated land or assumes the incidence of title thereto.

That the definition of "disposition" be redrafted to make it clear that a disposition only arises when the transferee takes possession of the designated land or assumes the incidence of title, as previously mentioned.

COMMENT: Our Committee is concerned that it is not entirely clear when a disposition takes place. For example, at the time of entering into an agreement of purchase or sale or at the time of "closing" of the transaction.

In this connection, it should be made clear that the entering into of a conditional agreement of purchase and sale is not to be considered a disposition until such time as the conditions have been met or waived or the purchaser has all of the incidence of title. (See, for example, Wardean v. M.N.R. 69 DTC 5194).

A disposition should only arise in respect of the exercise of an option at the time when a conveyance is delivered or other acts of ownership by a purchaser are exercised as in the case of an agreement of purchase and sale. On the sale or assignment of an option in respect of designated land, a disposition should be considered to have arisen at the time the consideration for the sale or assignment is payable.

It appears that these recommendations were not acted upon by the

draftsman of the Act or the officials of the Ministry of Revenue since the first amending act to the original Land Speculation Tax Act, chapter 107, was assented to on December 10, 1974 and contains no reference to section 2(3). The Act was further amended by chapter 121 which was assented on February 6, 1975 and section 2 was amended but those amendments do not touch upon the matters recommended for consideration by the committee. One must, therefore, assume that the draftsman of the Act and the ministerial advisers intended that a "disposition" under this Act, occur when a disposition would occur under the ordinary law of the province.

The question of when a disposition occurs was one of the many matters referred to the Court of Appeal for Ontario by Order-in-Council 2858/71 dated September 19, 1971 under the Constitutional Questions Act R.S.O. 1970, Chapter 79, asking for the opinion of the court upon certain questions.

The opinion of the court is dated March 19, 1973, and may be found in [1973] 2 O.R. 613 at pages 630-631 as follows:

> When A entered into an enforceable agreement to sell Greenacre to B the beneficial or equitable interest in the lands passed to B. Until the transaction was carried to completion A retained the legal title, but only as security for the purchase money payable under the agreement for sale. Thus, when he gave a grant of Greenacre to B on January 23, 1969, after subdivision control was imposed in the area, he merely released that security. The situation would be substantially similar if A had conveyed to B prior to subdivision control and B had given A a mortgage for the balance of the purchase money, and then later in 1969 A had given B a discharge of his mortgage. Prior to the imposition of subdivision control A had lost his dominion or control over the fee, and when he gave a final deed of the property to B he was releasing his bare interest in the fee under compulsion of the terms of the earlier agreement. He was merely satisfying an obligation which he had incurred prior to subdivision control being made applicable to Greenacre, and since the Planning Act has no restrospective operation, as decided in Township of Nepean v. Leikin, [1971] 1 O.R. 567, 16 D.L.R. (3d) 113, much less can it be contended that a by-law imposing subdivision control under the authority of the Act has retroactive effect.

> Our answer to Q.2 would not be altered by the fact that B had been granted an option on January 2, 1969, which was not exercised by him until subdivision control had been imposed in the area. An option to purchase land gives rise to an equitable interest in land because it is specifically enforceable. There is a right to have the option held open and this is similar to the right that arises when a purchaser under a firm contract may call for a conveyance. In both cases there is an equitable interest, but in the case of the option it is a contingent one, the contingency being the election to exercise the option: Frobisher Ltd. v. Canadian Pipelines & Petroleums Ltd. et al., [1960] S.C.R. 126 at pp.169-70, 21 D.L.R. (2d) 497 at pp. 631-3, per Judson, J.

So recent and so authoritative a pronouncement by a five-member panel of the Court of Appeal must have been in the minds of the draftsman and of the advisers to the Minister when the recommendation of the Minister's committee was considered but not followed.

Mr. Graham Stoodley, a solicitor attached to the Ministry of Revenue said in evidence before the Commission.

> In any case for all of those reasons, I consider the best view to be that a disposition would take place when the agreement of purchase and sale was entered into, and that for those reasons we had best consider the Act on that line of interpretation . . .
>
> Well, having taken that view, it was novel in the sense that it was different from the Income Tax Act, and the kind of tests we were using to tax the profit on land were akin to those in the Income Tax Act.
>
> Now, this view was early announced by the Ministry, and by me in seminars that were held after the Act was introduced.

Mr. Douglas Andison gave evidence before the inquiry. He was called to the Bar of Ontario in 1957 and has, for the last twenty years, practised exclusively in the taxation field and he was an alternate member of the Minister's Advisory Committee on The Land Speculation Tax Act. He did not act for any of the persons interested in the Ronto application for exemption but was called as an expert in his field. All of the facts which were given in evidence before the Commission and the great majority of the documents which

were filed as exhibits were given to him so that he might study them and express an opinion as to how he would have advised an applicant in Ronto's position. He stated that he felt that he was familiar with the policy of the Government "to the extent that policy can be perceived through the Statutes themselves and through published rulings and bulletins and through the legislative history of the Act." Based upon his knowledge so obtained, he stated that if he had been consulted by Ronto in February, 1976, he would have recommended that an application be brought under section 23 of The Land Speculation Tax Act and would have felt and would have expressed his opinion to his client that a sound arguable case could be put forward on its behalf in support of such an application.

Appendix 'E' to this report is a list of land speculation tax exemptions, deferrals and remissions granted between April 10, 1974 and May 10, 1977. It will be seen that the exemption granted to Ronto was the fourth of eight in which ministerial discretion was exercised in favour of an applicant.

CHAPTER V

THE APPLICATION FOR EXEMPTION FROM THE LAND SPECULATION TAX

After obtaining Mr. E.A. Goodman's confirmation of the opinion expressed by Mr. Carl Solomon, Mr. E.A. Goodman was retained to make an application on behalf of Ronto to the taxing authorities. His letter was addressed to Mr. I. Stephenson, the Director of the Succession Duty Branch and, since much of the evidence turned upon it, it is set out in full.

February 13th, 1976.

Mr. I. Stephenson,
Director, Succession Duty Branch,
Department of Revenue,
9th Floor, 77 Grenville St.,
Toronto.

Dear Mr. Stephenson:

Re: Ronto Development Company and the Sale to George Wimpey Canada Limited of property in the City of Brantford; Application for exemption under the Land Speculation Tax Act.

1. We are the solicitors for Ronto Development Company (Ronto) which is a corporate partnership that has sold certain property in the City of Brantford to George Wimpey Canada Limited (Wimpey). You will find enclosed herewith the accepted offer to purchase in this matter.

2. We wish to bring two conditions of this contract to your attention. The one is Clause 11 and the second is clause 24.

3. We would, therefore, request exemption under the provisions of the regulations passed pursuant to Section 73 of the Land Speculation Tax Act (the Act). I would like to set out the circumstances which I believe entitle this transaction to the exemption.

4. The corporate partners of Ronto are Ronto Developments Limited, the Cuttyco Corporation Limited and S. Donnenfeld Construction Limited. The late Mr. Ron Todgham of Windsor, who died in December of last year, acted as Chairman of this partnership. While the day-to-day management of Ronto is carried on by Mr. Jack Solomon and Mr. S. Donnenfeld, Mr. Todgham

was intimately involved with management.

5. Ronto carried on an extensive building and land development business in Southern Ontario. Like many similar companies, a major portion of the capital necessary for this capital intensive business is arranged through bank financing. The Royal Bank of Canada are the major bankers of Ronto. Under the arrangements with the Bank, all of the participating companies are jointly and severally liable for the financing and the major shareholders of the company have guaranteed these loans. The late Mr. Todgham has facilitated the credit of the partnership by guarantees of $1,650,000 to the Royal Bank. The sudden death of Mr. Todgham necessitates that Ronto put itself in a more liquid state to satisfy the bank and also to meet the needs of the Todgham Estate.

6. Prior to the death of Mr. Todgham, Ronto was proceeding to develop the lands in question with a view to selling the same to builders as lots. The work of developing this property for sale as building lots has been proceeding for several years. The developers were instrumental in arranging for the annexation of the land in question by Brantford. In order to facilitate this, they have participated in the preparation of economic base studies and assisted in the preparation of other official plan amendments.

7. At the present time, Brantford has passed a zoning by-law zoning this property and the vendors have received draft approval of a plan of subdivision. Ronto has also had its engineer, R. V. Anderson & Company, prepare the engineering designs and specifications for servicing the subdivision and the same has been approved by Brantford. Our client has even gone to the extent of calling tenders for the installation of services on a portion of the property in question. You will notice that it is also a term of the condition that a subdivision agreement be assigned prior to closing. In short, our client has done everything except put the pipes into the ground.

8. The death of Mr. Todgham has made the problem of continuing the financing of the installation of services much more difficult. Furthermore, the Estate requires the liquidation of Mr. Todgham's obligations, particularly to the Bank. Ronto now has the opportunity of achieving these things by selling the property to Wimpey under the terms of the agreement we have enclosed.

9. You will note that the agreement provides that Wimpey cannot sell these properties until they have completed all of the installation of the services and building permits are available to any lot purchasers. In fact, Wimpey will be using most of the land for building housing units themselves which will, of course, be sold to the public. It seems to me clear that our client is meeting the intent of the Act having done by far the most important part of the development and servicing work. It is also clear that approving of this exemption will allow the housing units to come on the market much quicker than if this exemption is not approved.

10. The writer would be pleased to attend upon you at your convenience to discuss this matter further.

Yours very truly,

GOODMAN & GOODMAN,

Per: "E.A. Goodman" (signed)

(The paragraph numbers were not in the original letter but are inserted for purposes of convenience only. The reference to Section 73 in paragraph 3 was corrected, in evidence, to Section 23.)

Upon receiving this letter, Mr. Stephenson wrote back to Mr. Goodman requesting the completion and filing of an application for lien clearance and a schedule of certain costs. These were forwarded by Mr. Goodman to Mr. Stephenson on March 10 as follows:

SCHEDULE OF COSTS OF IMPROVEMENT

Planning and Engineering For Draft Plan Approval and Engineering Approval from City and Ministry of Environment		$ 121,932.00
Surveying Draft Plan and Reference Plan		16,564.00
Staff Wages and other items related to this project		130,000.00
Cost to Completion as Required under Agreement of Sale (to be reimbursed on closing) to be done by Vendor		
(a)	Surveying (to obtain registration and final plan)	18,435.00
(b)	Carrying Charges	22,000.00
(c)	Impost Fees (as required in Subdivision Agreement)	48,000.00

(d)	Engineering Supervision by City (as required in Subdivision Agreement)	20,000.00
(e)	Public Utilities Commission Levies (as required in Subdivision Agreement)	111,000.00
(f)	External Servicing levy (as required by Subdivision Agreement)	86,000.00
		$ 573,931.00

COST OF MAINTENANCE

1.	Mortgage Interest	$ 134,770.00
2.	Bank Charges and Interest	45,349.00
3.	Realty Taxes	2,875.00
		$ 182,994.00

(The form of Application for a Lien Clearance is reproduced on page 24)

Ministry of Revenue — The Land Speculation Tax Act, 1974

Application for a Lien Clearance

MINISTRY USE ONLY
CLEARANCE NUMBER
No CERTIFICATE ISSUED

PLEASE PRINT CLEARLY THROUGHOUT THIS APPLICATION

PLEASE REFER TO INSTRUCTIONS & EXPLANATORY NOTES.

A BASIC INFORMATION

NAME OF TRANSFEROR (AS IT APPEARS ON INSTRUMENT TO BE REGISTERED)	NAME OF TRANSFEREE (AS IT APPEARS ON INSTRUMENT TO BE REGISTERED)
Ronto Development Company	George Wimpey Canada Limited
MAILING ADDRESS OF TRANSFEROR	MAILING ADDRESS OF TRANSFEREE
211 Consumers Road	80 North Queen Street
Willowdale, Ontario.	Toronto, Ontario
POSTAL CODE M2J 4G8	POSTAL CODE M8Z 2C9

B DESCRIPTION OF PROPERTY AND IMPORTANT DATES

MUNICIPAL ADDRESS					MUNICIPAL TAX ROLL NUMBER
South Powerline Road, R.R. #6, Brantford, Ontario					50-133
LOT NO.	CONC. NO.	PLAN NO.	MUNICIPALITY	TOWNSHIP	ACREAGE
7-40	2		Brantford		338.6
JUDICIAL DISTRICT OR COUNTY			LAND REGISTRY DIVISION		
Brant			Brant (no. 2)		
PARCEL NUMBER	REGISTRATION NUMBER OF INSTRUMENT CONTAINING LEGAL DESCRIPTION		LAST LIEN CLEARANCE NO. AND DATE		
n/a	A162104		n/a		
DATE ACQUIRED BY TRANSFEROR	DATE OF THIS DISPOSITION		ANTICIPATED CLOSING DATE	IS THIS AN ARMS LENGTH TRANSACTION YES	NO
June 26, 1974	Jan. 31/76		April 15/76	X	

C TAX CALCULATION

PROCEEDS OF DISPOSITION		$ 12,000,000.00
ADJUSTED VALUE (CHECK ONE) (FOR FARM PROPERTY USE SECTION 5 ONLY)		
1. ☐ FAIR MARKET VALUE ON APRIL 9, 1974—IF ACQUIRED ON OR BEFORE THEN (USE ACQUISITION COST IF GREATER)		
☐ COST OF ACQUISITION—IF ACQUIRED AFTER APRIL 9, 1974		
☐ FAIR MARKET VALUE ON DATE OF DEATH		
☐ FAIR MARKET VALUE ON DATE OF ACQUISITION	$	
2. COST OF IMPROVEMENTS SINCE APRIL 9, 1974 OR DATE USED IN 1. ABOVE	$	
3. NET MAINTENANCE COSTS SINCE APRIL 9, 1974 OR DATE USED IN 1. ABOVE — THE LESSER OF (CHECK ONE): ☐ ACTUAL NET MAINTENANCE COSTS, OR ☐ 5/6 of 1% OF VALUE USED IN 1. ABOVE, TIMES THE NUMBER OF FULL MONTHS SINCE DATE USED IN 1 ABOVE	$	
4. COST OF DISPOSITION	$	
5. FOR FARM PROPERTY ONLY		
A. FAIR MARKET VALUE ON THE LATEST OF (CHECK ONE): ☒ APRIL 9, 1974 ☐ DATE OF DEATH OF LAST OWNER WHO WAS A MEMBER OF THE FAMILY ☐ DATE ACQUIRED FROM OUTSIDE FAMILY	$ 6,772,000.00	
B. COST OF IMPROVEMENTS (SINCE DATE USED IN 5A)	$ 573,931.00	
C. COST OF MAINTENANCE (SINCE DATE USED IN 5A THE LESSER OF (CHECK ONE): ☒ ACTUAL COST, OR ☐ 5/6 OF 1% OF VALUE USED IN 5A, TIMES THE NUMBER OF FULL MONTHS SINCE DATE USED IN 5A.	$ 176,080.00	
D. PROPERTY ADJUSTMENT — 10% OF THE VALUE USED IN 5A COMPOUNDED FOR THE NUMBER OF YEARS SINCE THE DATE USED IN 5A	$ 677,200.00	
E. COST OF DISPOSITION	$ 500,000.00	
TOTAL ADJUSTED VALUE (SUM OF ITEM 1, 2, 3 AND 4 OR ITEM 5)		$ 8,699,211.00
GROSS TAXABLE VALUE (PROCEEDS OF DISPOSITION LESS TOTAL ADJUSTED VALUE)		$ 3,300,789.00
TAXABLE VALUE REDUCTION (FOR FARM AND INVESTMENT PROPERTIES ONLY		$ nil
NET TAXABLE VALUE		$ 3,300,789.00
TAX PAYABLE – 20% OF NET TAXABLE VALUE — ENCLOSE CERTIFIED CHEQUE PAYABLE TO TREASURER OF ONTARIO		$

D FOR ESTATE REPRESENTATIVES ONLY

NAME OF DECEASED — DATE OF DEATH

E CERTIFICATION

I hereby make application for a LIEN CLEARANCE under The Land Speculation Tax Act 1974, and certify to the best of my knowledge, information and belief the information herein to be true and correct, and further certify that to the best of my knowledge, information and belief, there has been no other disposition by the transferor of, or with respect to the designated land described in section B since the date of acquisition by the transferor, other than the disposition referred to in Lien Clearance No. ..... (delete the last 10 words if not applicable – list additional dispositions on separate schedule).

Date March 2, 1976 Signature Ronto Development Company by its solicitor Goodman & Goodman

F TRANSFEROR'S REPRESENTATIVE

NAME: Goodman & Goodman — TELEPHONE NO. (PLUS AREA CODE) ( ) –

MAILING ADDRESS: 1600 Richmond Adelaide Centre, Toronto, Ontario — POSTAL CODE

A Lien Clearance is not required as no lien is claimed, where the affidavit under Section 5 (3) of the Act claiming exemption from the tax is attached to the instrument at the time of registration.

Condition number 11 in the agreement between Ronto and Wimpey provided for the receipt of a "ruling or written opinion or written notice from the Ministry of Revenue" within sixty days after the acceptance of the offer or by the end of March and the agreement itself provided for closing on April 15. When these documents were received, they were treated in the ordinary way in which such an application would be treated. Mr. Stephenson, who was going on holidays, turned the matter over to his assistant, Mr. Rowsell, who wrote a memorandum to the Comptroller of Revenue, Mr. Weiers, setting out the date of the Agreement of Purchase and Sale and closing of the purchase transaction by Ronto and the details of the sale transaction to Wimpey and set out conditions 11 and 24 in full. He then refers to the death of Mr. Todgham and its effect on the line of credit at the bank and the requirements of the estate's executors. He pointed out that an automatic exemption under section 4(k) was not available but that a discretionary exemption under section 23(2) was being sought.

He then states:

> . . . but the claim is made by the solicitor for Ronto that his client has met the intent of the Act '. . . having done by far the most important part of the development and servicing work. It is also clear that approving of this exemption will allow the housing units to come on the market much quicker than if this exemption is not approved . . .'

He goes on to say that the Ministry had asked for further information which they have now received and advised the comptroller:

> . . . inasmuch as the property was acquired by Ronto prior to April 9, 1974, we do not know the cost of acquisition to Ronto, but the April 9, 1974 value is shown at $6,772,000 based upon $20,000 per acre. The figures on the form are questionable e.g. the $677,200 claimed for farm property adjustment and $500,000 for disposition costs, but even accepting those amounts the amount of the tax on the basis of the application exceeds $660,000.

The comptroller received this memorandum on the 17th, the day after it

was typed, and he had a preliminary discussion with Mr. Rowsell and then saw the Minister. Normally, he would have gone to see the Deputy Minister but he was ill at this time and because of the appearance of urgency from the dates in the agreement as set out in the memorandum, he felt it important enough to go directly to the Minister. He outlined the application to him, told him of the effect of the death of the principal partner in a development which was well on its way to completion and the effect this would have on the completion of a housing project.

Mr. Weiers said, when asked for the most important factor in the discussion, "Here was a development company who was legitimately interested in completing a development in the spirit of section 4(k) for exemption . . . they were well on their way to earning that exemption and as we have no reason to believe that had the death not occurred, and I suppose the financial circumstances that gave rise to that existed, we had no reason to believe that they would not have finished it and earned the exemption and secondly that it was not the intention of the Act "to impede this type of development, we were -- I think the Minister felt this was an impediment."

Mr. Weiers then wrote a note on Mr. Rowsell's memorandum directing it back to him and saying, "I discussed this case with the Minister. He is sympathetic and has requested a regulation exempting it to take to his cabinet colleagues for consideration -- also need Management Board Order." This was the normal course for such an application.

In giving evidence, Mr. Meen, the Minister of Revenue, said, "it was my opinion then that the general projection in The Land Speculation Tax Act permitting by special order a remission of tax in a circumstance like this, would be appropriate, and I felt as I indicated here, by Mr. Weiers' memorandum, back to Mr. Rowsell, that I was sympathetic to the problem which they faced, and

that perhaps there was some remedy that would be suitable to help get those lots going and on the market."

Mr. Darcy McKeough, the Treasurer of Ontario, gave evidence that his parents had known the late Mr. Todgham and his wife very well during the days that Mr. Todgham lived in Chatham and that he knew the sons, although not well. Early in February, Mrs. Todgham sought a meeting with him to discuss the liability of Ronto for tax under the Act. He met Mrs. Todgham and her son Douglas at his office in Toronto, heard the story as related by them and, as he recollects, told them, ". . . that the purpose of the Act in the simplest possible terms was to tax those who were speculating and the purpose of the Act was not to penalize in any way those people who were involved in development of lots and putting them on the market and putting homes on them." He also told them that as far as he could see there would be no problem and that he would be glad to speak to their lawyer and to Mr. Meen.

He later did speak to Mr. E.A. Goodman who was also of the opinion that the situation was not one which should attract taxation but when Mr. McKeough said he was going to speak to Mr. Meen, Mr. Goodman immediately said that he had written to the staff of the ministry and was dealing at that level and would he please not do anything to interfere since intervention by a minister from another ministry was likely to be resented and that the best course was for Mr. Goodman to deal with the civil servants in the ordinary way. The members of the Legislature who gave evidence said that Mr. McKeough's meeting with the Todghams was a normal and proper one, that any member would have done the same thing for a constituent or an old friend and that most members have requests for some sort of assistance several times a week. Mr. McKeough wrote to Douglas Todgham confirming what he had said he would do and he later noted on a copy of the letter, " 'Talked to E.A.G.' — don't do

anything — don't talk to Meen." Mr. Goodman confirmed the conversation and the request which he made to Mr. McKeough.

At some point someone in the Succession Duty Branch called Mr. Goodman to ask whether or not the dates in the contract were absolute or whether there might be an extension since it appeared that the application could not be processed within the dates agreed to by Ronto and Wimpey. Either Mr. Goodman or his secretary told the caller that it would be possible to arrange for an extension of the time and this was done. In due course, the matter went to the Management Board and thence to Cabinet and eventually a regulation was made exempting Ronto from payment of any tax under the Act.

CHAPTER VI

EVENTS AFTER THE EXECUTION OF THE AGREEMENT OF SALE TO WIMPEY

Wimpey's offer to purchase all of the land owned by Ronto was accepted by it on January 31, 1976 and the closing of that transaction took place on May 12, 1976. After closing some matters remained to be resolved with the city of Brantford such as reviewing and agreeing to the cost of oversizing services, some road building costs, the oversizing of the valley sanitary trunk crossing and its construction and some other matters. Ronto had five representatives at this meeting. The same group met again with city officials on February 11, discussing similar matters and there were four representatives at a meeting on February 20. On March 15, and during this period, the company had meetings and correspondence with its solicitors, and with some of Wimpey's officials, all dealing with the continuing discussion of matters leading to the development of the land.

Within about two weeks of the closing of the deal Wimpey physically commenced installing the services in the ground and worked at this throughout the summer of 1976. The final plan was approved by the Minister of Housing on June 22 and on August 10, Cuttyco, one of the Ronto partners, purchased a net of 59 lots from Wimpey on which to build houses. By September of 1976, Wimpey had completed a major part of the stage I servicing. Wimpey and Cuttyco then commenced and have continued the construction of new housing on the lands. At the time of the hearing, both companies were selling completed houses in the subdivision known as Brantwood Park, many of which houses are already occupied.

CHAPTER VII

SUMMARY AND FINDINGS

I was appointed, " . . . to inquire as to whether any undue or improper influence was brought to bear, from any source, or whether there was any other impropriety of any kind in respect of the decision by the Government to grant an exemption . . . to Ronto Development Company."

The Shorter Oxford English Dictionary, third edition, defines the key words above as follows:

(a)	Undue	-	Not appropriate or suitable; improper; unreasonable. Unjustifiable, illegal, going beyond what is appropriate, warranted or natural; excessive.
(b)	Improper	-	Not proper; the opposite of proper. Not strictly belonging to the thing under consideration; not in accordance with truth, fact, reason or rule; abnormal; incorrect, wrong. Not in accordance with the circumstances or the end in view; unsuitable, illadapted. Unbecoming; indecorous, indecent.
(c)	Impropriety	-	The quality of being improper; incorrectness; inappropriateness; unseemliness; morally improper conduct.

Another standard reference is Jowitt, "The Dictionary of English Law", first edition, 2nd impression (1965):

(a)	Undue Influence	-	Any influence, pressure or domination in such circumstances that the person acting under that influence may be held not to have exercised his free and independent volition in regard to the act.

Other than the use of the word "undue" in connection with the word "influence" and usually with respect to wills or contracts, these words have not been defined in any Canadian cases. They have been considered in some American cases and, generally, "improper" has been distinguished from "illegal", which means something unlawful, and is defined as "not suited to the circumstances, design or end; not appropriate, fit or congruous; not accordant with propriety or good taste or manners."

An English County Court judge in King v. Davis, 53 S.J. 247, considered the phrase, " . . . by undue influence or other improper means" and was of the opinion that, "improper means", is equivalent to "unfair means". In the case he was dealing with the actions of an insurance company in reaching a settlement under the Workmen's Compensation Act verged on the fraudulent.

It was the position of Commission counsel that I should go substantially beyond impropriety in the sense of criminal offence and that impropriety should include a situation, if it existed, under which the Government acted upon incomplete, inaccurate or misleading information.

Counsel for Mr. E.A. Goodman accepted that widened definition as being appropriate but added that if there was any such inaccurate, incomplete or misleading information, before it could amount to an impropriety, it should be material to the exemption and done knowingly. This appears to be a not inappropriate refinement of the definition.

All of the witnesses appearing before the Commission, other than the Commission's own investigators and the five members of the Opposition parties in the Legislature, were asked four questions:

1) Did anyone communicate with you in any way with respect to the granting of the exemption which is under investigation at any time prior to its passing?

2) Do you know of any other person, Cabinet Minister, member, civil servant or Crown employee who was so approached?

3) Were you directly or indirectly offered any inducement or subjected to any pressure or influence with regard to the exemption?

4) Do you know of any other person who was?

These questions were amended slightly to fit the part played by each of the several witnesses to whom they were put, but the import of the questions was not thereby affected. In every case the answer to each question was "no".

In this regard I should also point out that all of the witnesses involved in the application waived any protection or privilege they might have from disclosing evidence because it was protected by any Statutes providing confidentiality or was protected by the comprehensive privilege which exists with respect to communications between solicitors and clients, and all questions were fully answered, many of which need not have been.

Because of the breadth of the definition which I am adopting to test the behaviour of all persons concerned in this exemption and because there are some admitted inaccuracies in Mr. Goodman's letter of February 13th, set out in full earlier in this report, and some question as to the accuracy of the figures in the Application for Lien Clearance, I propose examining both documents in some detail.

The last two sentences of paragraph 5 of Mr. Goodman's letter may not be entirely accurate. The evidence of Mr. Tower, the senior Assistant Manager at the Main Branch of the Royal Bank who had charge of the Ronto loan, said that he thought Mr. Todgham's guarantee the most important but it must be remembered that Messrs. H.L. Solomon and S.Z. Donnenfield were co-guarantors.

With respect to the last sentence, the bank had been anxious that Ronto improve its financial position and reduce its borrowing needs for some months before Mr. Todgham's death and the refusal of the Todgham executors to guarantee any further loans increased the pressures to make some arrangements other than further borrowing from the bank. His death did not create but only aggravated the financial situation.

The first sentence in paragraph 6 is inaccurate in that Ronto was developing lots, not only to sell to builders but also to build on itself, and Ronto was not instrumental in arranging for the annexation of the land by the city, but when they became aware that Brantford had annexation plans underway for some lands near by, they did participate in studies and other matters and, eventually, their lands were annexed along with those of others.

The last sentence in paragraph 7 is also somewhat inaccurate as some things remained to be done after Wimpey's offer to purchase had been accepted, as has been outlined in an earlier chapter. One witness estimated that 80 per cent of the work though not 80 per cent of the cost necessary to put Ronto into a position to obtain building permits had been accomplished at the time of the sale.

In the second last sentence in paragraph 9, "It seems to me clear that our client is meeting the intent of the Act having done by far the most important part of the development and servicing work." This can be read disjunctively and be interpreted to mean that they had done the most important part of the servicing and that is, of course, inaccurate since no servicing in the sense of putting pipes into the ground had been done at all. However, read conjunctively and taken to mean the preparation of all of the plans necessary for the servicing, it is quite accurate.

While the letter may have contained some advocacy on behalf of Ronto none of the inaccuracies is of any real significance and certainly none can be said to fall within the broadened definitions which I have adopted as the test to be applied to the actions of all persons concerned in the application for exemption.

I turn now to some figures in the Application for Lien Clearance. The proceeds of disposition is stated to be $12,000,000, but the "date acquired by transferor" as June 26, 1974 is wrong. The error is against Ronto's interest but this appears to be cleared up by the "X" which appears in the first box under item (5). The land valuation used by Ronto is $20,000 per acre, the sale price on March 12, 1975 of almost 200 acres of land known as the "Webster farm" which adjoined part of Ronto's lands, for a total value of $6,772,000 as at April 9, 1974. In the Spring of 1976, W.H. Reimer Limited, real estate appraisers, did an appraisal of the Ronto property and used as comparables not only the Webster lands but five other parcels in the area and determined the value as of April 9, 1974 to be $7,110,700; this is the valuation used by the Provincial Auditor in a computation which he made for the Public Accounts Committee in the Spring of 1977.

The property adjustment figure being 10 per cent of the value of the property for one year while it was in farm use was claimed by Ronto at $677,200 while the Provincial Auditor was of the opinion that two years should have been allowed and, based upon the higher valuation, made a total allowance of $1,493,247. Ronto claimed a cost of disposition of $500,000 while the Provincial Auditor allowed $509,247 which left a net taxable value in Ronto's claim of $3,300,789 whereas the Provincial Auditor found it to be $2,465,789. The cost of disposition was of concern to some of the Opposition members. The sum of $109,247 appears to have been paid to various solicitors for opinions,

negotiations, and the closing of the transaction. It is less than one per cent of the selling price and, while not a small amount, appears to be quite justifiable. Four hundred thousand dollars was the fee paid to Ernest Goodman (no relation to E.A. Goodman), the real estate agent, whose part in the matter has been previously reviewed. There was a sworn statement that this fee was in fact paid to Mr. Ernest Goodman for his services and amongst the papers filed there is a receipted account from him.

Because of a cryptic allegation with respect to this $400,000 made to a member of the staff just before the close of the hearings which was not brought forward formally or informally to the Commission earlier, I directed that an investigation be made. Search warrants were obtained, all of Mr. Ernest Goodman's records and bank accounts were examined, as were those of some other persons. A report to Commission counsel has been filed as Exhibit Number 108 in these proceedings. His covering letter is attached hereto as Appendix 'F'. This exhaustive investigation shows that the allegation was completely unfounded; that the money which was paid to Mr. Ernest Goodman was used for salesmen's commissions to persons on his staff and for other proper routine matters and no part found its way into the hands of anyone who appeared before the commission or who was involved in granting the exemption to Ronto. I am satisfied that I went far beyond what was necessary in making this investigation because of the circumstances under which it came to the Commission's notice. There is no evidence of any misconduct or wrongdoing on the part of Mr. Ernest Goodman.

Every principal of every company involved in any way directly or indirectly with the exemption granted to Ronto, the solicitors retained with respect to the application, every person in the Ministry of Revenue from the minister down who dealt with the matter and the members of the opposition

parties most actively engaged in the hearings before the Public Accounts Committee were subpoenaed, put under oath and interrogated not only as to their own knowledge of any improper activities but as to any information which may have come to them. None gave any evidence of any impropriety as defined earlier in this report.

I can think of no further investigation that could be made and no witness could suggest any; nor did any member of the public in response to the advertisements and repeated public invitations come forward to suggest any line of inquiry except the one referred to which was pursued immediately, in detail and with vigour.

I have inquired into the matters referred to me and hereby report that I am satisfied that there was no undue or improper influence brought to bear on anyone from any source nor was there any other impropriety of any kind in respect of the decision by the Government in granting an exemption under the provisions of The Land Speculation Tax Act, 1974, to the partnership carrying on business as Ronto Development Company.

I was urged by some witnesses to write a code of ethics to govern the activities of lawyers who are politically prominent in dealing with governments, government departments, bodies or boards while the party which they support is in power. Not only is this obviously far beyond the scope of this inquiry, but it is a task of enormous and perhaps impossible complexity.

July, 1977

Commissioner

APPENDIX 'A'

STAFF OF THE COMMISSION AND APPEARANCES:-

COMMISSIONER	The Honourable J. David Cromarty
COMMISSION COUNSEL	J. Roderick Barr, Q.C.
ASSOCIATE COUNSEL	Nicholson D. McRae, Q.C.
EXECUTIVE SECRETARY	L.J. Pelissero
REGISTRAR	J.E. Smith
INVESTIGATOR	Peter J. Campbell
SECRETARY	D.M. Pullishy
COUNSEL FOR RONTO DEVELOPMENT CO.	S.G. Fisher, Q.C. G.L. Jacobs
COUNSEL FOR MR. E.A. GOODMAN, Q.C.	P.R. Genest, Q.C. W.E. Pepall
COUNSEL FOR WITNESSES FROM GEORGE WIMPEY CANADA LIMITED	J.D. Brownlie

APPENDIX 'B'

THE WITNESSES CALLED BEFORE THE COMMISSION IN ORDER OF APPEARANCE:-

Pelissero, Louis Jack
Campbell, Peter James
Solomon, Allen Jack
Donnenfield, Samuel Z.
Forrest, Ronald
Tower, Allen Leslie
Bennell, Colin Frederick
Grant, Alexander Ramsay
Gibson, Clarence Ray
Stephenson, Isaac
Rowsell, Derek Wilfred
Goodwin, James Cameron
Stoodley, Graham
Sholtack, Gerald William
Weiers, Robert John
Russell, Terrence Michael
Meen, Arthur Kenneth
Todgham, Lorne Douglas
Todgham, Richard Boyce
McKeough, William Darcy
Goodman, Edwin Allen
Solomon, Harry Louis
Solomon, Carl Morton
Sargent, Edward Carson
Makarchuk, Mitro
Peterson, David Robert
Deans, Ian
Nixon, Robert Fletcher
Andison, Douglas

APPENDIX 'C'

LIST OF EXHIBITS FILED BEFORE THE COMMISSION:-

Date	Document Description	Exhibit No.
Apr. 20/77	Proclamation establishing the inquiry	1
May 12/77 " 13/77	Newspaper advertisements re the inquiry	2
	Notice to witness re the provision in The Public Inquiries Act, 1971, of his right to object to answer any question under Section 5 of the Canada Evidence Act (Section 5 is quoted)	3
	Registrar's abstract sheets for Lots 37, 38, 39 and 40, Concession 2, Brantford Twp. and the City of Brantford	4
	Annual information returns to Ministry of Consumer and Commercial Relations for:- Ronto Developments Ltd. S. Donnenfield Const. Ltd. The Cuttyco Corp. Ltd. Wimpey Developments Ltd. Wimpey Homes Ltd. George Wimpey (Canada) Ltd.	5
July 6/71	Ronto partnership agreement among inter alia The Cuttyco Corporation Ltd., Ronto Developments Ltd., and 244869 Developments Ltd.	5A
Aug. 13/73	Motion by City Council of Brantford instructing City Solicitor to make application to The Ontario Municipal Board to annex portion of Brantford Twp.	6
Sept. 18/73	Agreement of Purchase and Sale between James Pate, Malcolm Harnum/Trustee and Ronto Development Co.	7
Sept. 18/73	Agreement of Purchase and Sale between James Pate, Andrew McRae, Marion Knight, Malcolm Harnum/Trustee	8

	and Ronto Development Co.	
Sept. 18/73	Agreement of Purchase and Sale between Doreen Pate, Malcolm Harnum/Trustee and Ronto Development Co.	9
Oct. 3/73	Letter from Ron Forrest, Ronto Development Co. to Mayor C.R. Bowen, City of Brantford, describing the proposed Brantwood Project and proposed methods of expediting the project	10
Oct. 12/73	Guarantee to the Royal Bank for $1,250,000 by Ronto principals	10A
Oct. 15/73	Proposed land development study for Ronto, prepared by Patterson Planning and Research Ltd. for an economic base study of Brantford property	10B
Oct. 17/73	Letter from Ronto to Patterson Planning and Research Ltd. appointing them as their consultant	10C
Oct. 17/73	Assignment of Agreement for Sale, Malcolm Harnum to Ronto Development Co. James Pate property	11
Oct. 17/73	Assignment of Agreement for Sale, Malcolm Harnum to Ronto Development Co. James Pate, Andrew McRae, Marion Knight property	12
Oct. 17/73	Assignment of Agreement for Sale, Malcolm Harnum to Ronto Development Co. Doreen Pate property	13
Nov. 19/73	Letter from P.J. Beavis, Director of Planning, City of Brantford to Mayor Bowen, outlining the problems in which the city would be involved if the proposed Ronto development were approved	14
Dec. 17/73	By-Law No. 189-73 of the City of Brantford to authorize an application to the Ontario Municipal Board to annex certain lands in the Township of Brantford	15
Dec. 17/73	Registered Instrument No. 155616, Notice of an Assignment of an Agreement of Purchase and Sale between Malcolm Harnum/Trustee as Assignor and Ronto	16

	Development Co. as Assignee; James Pate, Andrew McRae and Marion Knight property	
Dec. 17/73	Registered Instrument No. 155617 Assignment of an Agreement of Purchase and Sale between Malcolm Harnum/Trustee as Assignor and Ronto Development Co. as Assignee; Doreen Pate property	17
Dec. 17/73	Registered Instrument No. 155618 Assignment of an Agreement of Purchase and Sale between Malcolm Harnum/Trustee as Assignor and Ronto Development Co. as Assignee; James Pate property	18
Dec. 19/73	Letter from Ewart Biggar, Clerk, Twp. of Brantford, to R. Cooper, City Clerk, giving extract from Council Minutes of Dec. 17, 1973 confirming council's agreement to annexation of 1,487 acres to the city	19
Dec. 24/73	Registered Instrument No. 155310 Agreement between James Pate and the Twp. of Brantford and Ronto Development Co. conveying to the township the right to enter upon the lands	20
Jan. 7/74	Letter from City Clerk to Township Clerk requesting that Township Council pass necessary by-law re annexation of 1,487 acres to the city	21
Jan. 14/74	By-Law No. 4136, Twp. of Brantford confirming consent to an application made by the City of Brantford to the Ontario Municipal Board to annex lands within the Township to the City	22
May 15/74	Amending agreement to Ronto partnership agreement changing the partnership profit allocation	22A
May 30/74	Memo from file of L. McCorriston, Engineer of the firm R.V. Anderson Assoc., consulting engineers and planners re meeting with S. Donnenfield of Ronto Development Co. re a proposal for development of 300 acres in Brantford	23

June 13/74	Registered Instrument No. 162105 Mortgage - Ronto Development Co./Mortgagor, James Pate/Mortgagee	24
June 17/74	Registered Instrument No. A162104 Conveyance of properties of James Pate ; James Pate, Andrew McRae and Marion Knight and Doreen Pate to Ronto Development Co.	25
June 25/74	Agreement between Vendors Pate, McRae and Knight with Ronto Development Co./Purchaser re lease back to James Pate and water maintenance service and diligent prosecution of application to Committee of Adjustment	26
June 28/74	Direction to Ronto Development Co. naming amount of mortgage and James Pate as Mortgagee; also direction from James Pate to Ronto listing quarterly interest payment due to each of the Vendors	27
July 1/74	Lien clearance certificates from Vendors Pate, McRae and Knight to Malcolm Harnum and Deed from Malcolm Harnum to Ronto Development Co. Certificate No. 21755, 21756, 21757, 06861, 06862 and 06863	28
July 2/74	Letter from Carl M. Solomon, Solicitor to Ronto Development Co., reporting on the completion of the purchase from Pate et al	29
Aug. 2/74	Registered Instrument No. A165184 Conveyance from the Vendors Pate et al to Ronto Development Co. referring to Registered Instrument No. A162104, the Grantors having sought and obtained consent from Committee of Adjustment whether multiple Grantors involved in a Conveyance would offend the Planning Act	30
Aug. 7/74	Registered Instrument No. A165546 Order from Ontario Municipal Board ordering the annexation to the City of Brantford, the parcel of land described	31

	in Schedule A to By-Law 189-73; effective date October 1, 1974	
Aug. 15/74	Revised statements of adjustments Pate et al sale to Ronto Development Co. closed as of June 21, 1974	32
Aug. 23/74	Notation from the files of R.V. Anderson Associates reporting on negotiations with S. Donnenfield of Ronto Development Co. re contract for engineering services	33
Aug. 28/74	Guarantees to the Royal Bank from Ronto principals (i) for $1,000,000 (ii) for an additional $650,000	33A
Aug. 28/74	Notation from the files of R.V. Anderson Associates indicating S. Donnenfield and Jack Solomon of Ronto stated they wished Anderson to do the engineering	34
Sept. 6/74	Agreement between Ronto Development Co. and R.V. Anderson Associates to develop as a residential subdivision the approximately 340 acres of land owned by Ronto at Brantford	35
Sept. 16/74	Registered Instrument No. A165185 Mortgage between Ronto Development Co./Mortgagor and James Pate/Mortgagee	36
Nov. 1/74	Application to amend the official plan of the Twp. of Brantford planning area within the corporate limits of the City of Brantford by Ronto Development Co. and Mr. J. Webster	37
Nov. 19/74	Letter from P.J. Beavis, Director of Planning, City of Brantford, with draft letter to Central Mortgage and Housing for funding for the proposed city owned residential development	38
Nov. 27/74	Memo on file, R.V. Anderson Associates reporting on meeting with John Beavis, Director of Planning, Brantford, S. Donnenfield and Ronald Forrest of Ronto	39
Nov. 27/74	Extract from minutes of Planning Board meeting, City of Brantford dealing with rezoning application of Ronto Development Co. and J. Webster	40

Dec. 9/74	City of Brantford application form for an amendment to the zoning by-law and/or official plan signed by Ronald Forrest, Director of Planning, Ronto Development Co.	41
Feb. 16/75	City of Brantford By-Law No. 2576 to regulate the use of lands, north half of Lots 37, 38, 39 and 40, Concession 2 (the Ronto lands)	42
Apr. 16/75	Planning Board minutes City of Brantford, dealing with Ronto, City and Webster Lands, amendment to official plan	43
Apr. 30/75	Planning Board minutes City of Brantford subdivision application by Ronto	44
Apr. 30/75	Technical Advisory Committee minutes, Ronto Development Co. proposed plan of subdivision and official plan amendment	45
June 27/75	Letter from P.J. Beavis, Director of Planning, City of Brantford to W. Coulson, City Clerk, setting out resolution adopted by Planning Board in relation to Ronto property; attached is application to Planning Board from Ronto for subdivision plan approval	46
July 27/75	Minutes of meeting between Ronto and City of Brantford officials re subdivision agreement proposals	47
July 31/75	Minutes of meeting between Ronto and City of Brantford officials to discuss design of Ronto's development	48
Aug. 20/75	Minutes of Planning Board rezoning application by Ronto to allow a mixture of uses in the subdivision	49
Sept. 9/75	Amendment No. 27 to the Official Plan for the City of Brantford Planning Area including the Ronto Development Co. land and the rezoning of this land	50
Oct. 13/75	Subdivision Agreement between Ronto Development Co. and the City of Brantford	51 & 51A
Nov. 5/75	Letter from W.L. McCorriston, R.V. Anderson Associates to R.S. Middleton,	52

	City of Brantford engineer, enclosing set of engineering plans and advising tenders had been called for Phase I	
Nov. 26/75	Minutes of Planning Board, City of Brantford, continuation of discussion from Aug. 20/75	53
Dec. 1/75	Note from file of W.L. McCorriston, R.V. Anderson Associates, draft of letter to S. Donnenfield, Ronto	54
Dec. 10/75	Minutes of meeting between Ronto and City of Brantford Official re Ronto Development	55
Dec. 18/75	Agreement to Purchase between Ronto Development Co. (Vendors) and George Wimpey Canada Ltd. (Purchaser); Agreement never completed	56
Dec. 30/75	Letter from Carl Solomon to Goodman & Carr requesting land speculation tax opinion on proposed lots and blocks transaction	56A
Jan. 12/76	Letter from Carl Solomon to Fasken, Calvin requesting their opinion on certain contractual aspects of the draft lots and blocks transaction together with Fasken, Calvin's opinion letter in reply dated January 15, 1976	56B
Feb. 2/76	Letter from Ronto (H.L. Solomon and Alice Todgham) to George Wimpey Canada Ltd. with copy of offer to purchase by Wimpey; also, Schedules A to E inclusive which were agreements entered into by Ronto and assumed by Wimpey; subdivision, rental etc.	57
Feb. 3/76	Letter from Carl M. Solomon to Edwin A. Goodman requesting that he act on behalf of Ronto in obtaining Speculation Tax exemption	58
Feb. 5/76	Minutes of meeting between Ronto and City of Brantford official re oversizing of services and cost sharing	59
Feb. 11/76	Minutes of meeting between Ronto	60

	and City of Brantford officials to discuss cost sharing for oversizing	
Feb. 13/76	Letter from Ronto's solicitor (E.A. Goodman) to Ministry of Revenue (I. Stephenson, Director, Succession Duty Branch) asking for exemption under Land Speculation Tax Act, 1974	61
Feb. 18/76	Letter from I. Stephenson, Director, Succession Duty Branch, Ministry of Revenue, to E.A. Goodman, Ronto solicitor, asking that lien clearance application be completed and explanation of ". . . has done everything but put the pipes in the ground."	62
Feb. 20/76	Minutes of meeting between Ronto and City of Brantford officials re development	63
Feb. 23/76	Letter from Ronto (A.J. Solomon) to Carl M. Solomon, Ronto solicitor, on sale of land to Wimpey dealing with subdivision agreement and zoning by-law	64
Feb. 24/76	Letter from E.A. Goodman to Carl Solomon asking for information necessary to answer I. Stephenson's letter of Feb. 18, 1976	65
Feb. 25/76	Letter from Ronto (A.J. Solomon) to Carl M. Solomon, Ronto solicitor, on sale of land to Wimpey with costs involved on subdivision agreements, etc.	66
Mar. 1/76	Letter from Carl M. Solomon to E.A. Goodman in reply to letter of Feb. 24, 1976 outlining costs and land values as of April 9, 1974	67
Mar. 10/76	Letter from E.A. Goodman, Ronto solicitor to I. Stephenson in reply to letter of Feb. 18, 1976 with completed Lien clearance application and a schedule of additional costs	68
Mar. 12/76	Minutes of meeting between Ronto and City of Brantford officials re park board requirements of development	69

Mar. 15/76	Notices of filing of regulations - Registrar of Regulations - advising that Ronto Regulation had been filed as of April 15, 1976 and would be published in the Ontario Gazette on May 1, 1976 under number 340/76; this document is misdated - should be April 15, 1976	70
Mar. 16/76	Letter (inter-office) from D.W. Rowsell, Assistant Director, Succession Duty Branch, to R.J. Weiers, Comptroller of Revenue, setting out the request by Ronto for exemption under Land Speculation Tax Act; memo is returned with hand-written note in margin on March 19, 1976	71
Mar. 19/76	Letter from J.C. Goodwin, Tax Specialist, Succession Duty Branch, to G. Stoodley, Director, Legal Services Branch of Ministry of Revenue, asking that a Regulation exempting Ronto be drafted	72
Mar. 26/76	Letter from G.W. Sholtack, Solicitor, Legal Services Branch to T.M. Russell, Deputy Minister of Revenue attaching proposed Regulation exempting Ronto from Speculation Tax	73
Mar. 28/76	Account to Ronto from R.V. Anderson Assoc., consulting engineers and planners; other accounts included under dates from Oct. 26, 1975 to March 28, 1976	74
Apr. 1/76	Minister of Revenue action slip to T.M.R. (discuss with me) in reply to one undated from T.R. to Minister asking for discussion on Ronto exemption	75
Apr. 6/76	Letter from Minister of Revenue, Arthur Meen to Her Honour the Lieutenant Governor in Council asking that Regulation exempting Ronto be signed; note to file advising Cabinet approval of Ronto exemption Regulation; also attached, copy of report to Management Board	76
Apr. 14/76	Guarantee given to Royal Bank by Harry Solomon and Sam Donnenfield for an additional $500,000 Ronto credit	76A

Apr. 26/76	Letter to Ronto from E.C. Aldersey, Deputy City Engineer, Brantford, agreeing to purchase price for land if needed	77
Apr. 27/76	Letter to Ronto from W. Coulson, Brantford City Clerk advising of Council approval of subdivision agreement	78
Apr. 28/76	Letter (inter-office) from J.C. Goodwin, Tax Specialist, Succession Duty Branch to T.M. Russell, Deputy Minister of Revenue advising of publication on May 1, 1976 of exemption regulation with a summary of the facts as known by the Ministry	79
Apr. 29/76	Registered Instrument No. A186755 - Wimpey assuming the first mortgage to James Pate and receiving a second mortgage in its favour from Ronto	80
Apr. 29/76	Registered Instrument No. A186757 - Notice of First Lien and charge in favour of the Crown under Land Transfer Tax Act, 1974	81
May 4/76	Letter from E.A. Goodman to Carl M. Solomon enclosing copy of Ronto Exemption Regulation and his account	82
May 11/76	Registered Instrument No. A186756 - second mortgage from George Wimpey Canada Ltd. to Ronto Development Company	83
May 11/76	Statement of Adjustments re Ronto Development Co., sale to George Wimpey Canada Ltd., Brantford property	84
May 11/76	Undertakings on behalf of Ronto to Wimpey on sale of land	85
May 12/76	Agreement between Ronto and Wimpey for Wimpey to assume agreements entered into by Ronto with the City of Brantford etc. re development	86
May 14/76	Solicitor's (office of Carl M. Solomon) report to client (Ronto) on sale of land to Wimpey	87
Aug. 12/76	Letter from I. Stephenson, Succession	88

to Aug. 17/76	Duty Branch to R.J. Weiers, Comptroller of Revenue outlining call from M. Makarchuk, MPP Brantford, asking questions re Ronto exemption; note to the Minister of Revenue making him aware of the inquiry; further letter from Stephenson to Weiers in explanation to footnote on Minister's memo	
Dec. 30/76	Letter from A.L. Tower, Senior Assistant Manager, Royal Bank of Canada to Carl M. Solomon, Solicitor for Ronto outlining Ronto Development Company's application for credit for the purpose of servicing their Brantford lands	89
Sept. 5/75 to Apr. 15/76	Royal Bank memoranda (with supporting information) re loans to Ronto Development	89A
	Map of a portion of Brant County including Lots 37 through 40 of Concession 2 (formerly Brantford Township), with an overlay indicating the land annexed by The City of Brantford in 1974	90
	Work Flow Diagram of the Ronto involvement in the development process with respect to the Brantford property	91
	1974 Ontario Budget statement presented to the Legislative Assembly by the Honourable John White, Treasurer of the Province of Ontario on April 9, 1974	92
	Complete list of Land Speculation Tax Exemptions, Deferrals and Remissions granted between April 10, 1974 and May 10, 1977	93
May 25/76	Probate of Last Will and Testament of Ronald Walter Todgham, late of the Village of St. Clair Beach, in the County of Essex	94
Apr. 21/76	Letter from W. Darcy McKeough, Treasurer of Ontario to Mr. Douglas Todgham advising that further to their conversations Cabinet had approved a Regulation exempting Ronto Development Company from the payment of tax	95

Feb. 4/76	Letter from W. Darcy McKeough, Treasurer of Ontario to Mr. Douglas Todgham dealing with their conversation that morning in regard to advice sought by Todgham under Land Speculation Tax Act	96
Feb. 11/76	Correspondence from Ronto Development Co. to A.L. Tower requesting an extension by $400,000 of the Ronto line of credit with the Royal Bank	97
Mar. 6/75	Offer to purchase between Lehndorff Investors Services Ltd. (purchaser) and Lynden Hill Farms Ltd. (vendor) for lands described as parts of Lots 40 and 41, Concession 2, in the city of Brantford (Webster land)	98
Apr. 25/75	Registered Instrument No. A172794, County of Brant, conveyance of land from Lynden Hill Farms to Lehndorff Investors Services Ltd. (lands described above in 98)	99
Mar. 29/76	An appraisal of Brantwood Estates, Brantford, Ontario by W.H. Reimer Limited (Ronto lands)	100
Feb. 5/75	Letter from Ronto Development Co. (Samuel Donnenfield) to Mayor Charles Bowen setting out proposed housing types and price range	101
May 5/76	Letter from Mr. Coulson, city of Brantford Clerk, to the Ministry of Housing confirming that Ronto has met the Ministry of Housing subdivision requirements	102
Mar. 16/77	Computation of the amount of land speculation tax that would have been payable by Ronto Development Company on the sale of land to George Wimpey Canada Ltd.	103
	Exhibit submitted to Public Accounts Committee by the Provincial Auditor dealing with the acquisition and subsequent sale of Pate land by Ronto Development Company	104
	Recommendations to the Minister	105

	of Revenue for the Province of Ontario relating to the Land Transfer Tax Act, 1974 and The Land Speculation Tax Act, 1974 by the Minister's Advisory Committee	
	Memorandum of Facts prepared for the Judicial Inquiry by Counsel for the Ronto Development Company	106
	Brief - Table of Contents, Index to Brief prepared by Counsel for the Ronto Development Company which includes a listing of Exhibits submitted to the Inquiry up to Friday, June 10, 1977	107
June 28/77	Report of Corporal Peter J. Campbell, to Mr. J.R. Barr, Q.C., Commission Counsel regarding $400,000 fee paid to Ernest Goodman Limited by the Ronto Development Company	108

APPENDIX 'D'

CALENDAR OF MAIN EVENTS AFFECTING THE BRANTFORD LANDS:-

1971		
July 6	-	Ronto Development Company formed
1973		
Sept. 1	-	R. Forrest, Town Planner, hired by Ronto
Sept. 18	-	Ronto's Offers to Purchase from Pate accepted
Oct. 3	-	Letter to city council describing proposed development
Oct. 12	-	Guarantee to the Royal Bank of Canada by the principals of Ronto for $1,250,000
Oct. 15	-	Land development study prepared by Paterson
1974		
Apr. 9	-	Land Speculation Tax Act became effective
June 26	-	Sale Pate to Ronto closed
Aug. 28	-	Guarantee to Royal Bank of Canada by the principals of Ronto increased to $1,650,000
Sept. 6	-	Agreement signed with R.V. Anderson Associates Limited to develop the lands
1975		
Mar. 12	-	Lehndorff offer to Lynden Hill (the Webster lands) accepted
Sept. 3	-	Letter by Wimpey to Ronto expressing an interest in the property
Sept. 9	-	Official Plan amended to include annexed area
Oct. 13	-	Subdivision Agreement signed
Nov. 5	-	Tenders called for installation of services
Dec. 26	-	Ronald Todgham died

1976

Jan. 31	-	Wimpey offer accepted by Ronto
Feb. 4	-	Mrs. Todgham and Douglas Todgham meet Darcy McKeough
Feb. 13	-	Goodman and Goodman letter to Succession Duty Branch
Apr. 14	-	Further guarantee to the Royal Bank of Canada by Harry Solomon and Samuel Z. Donnenfield
Apr. 15	-	O/Reg. 340/76 exempting Ronto from Land Speculation Tax filed
Apr. 27	-	City approves Subdivision Agreement
May 12	-	Sale to Wimpey closed

APPENDIX 'E'

COMPLETE LIST OF LAND SPECULATION TAX EXEMPTIONS, DEFERRALS AND REMISSIONS GRANTED BETWEEN APRIL 10, 1974 AND MAY 10, 1977

Relief from Section 2(1) Tax Granted for Technical Reasons

CaseNo. 1

Serviced land was sold to a builder. The requirements for exemption under Section 4(k) were met except for the fact that the land was not part of a subdivision plan nor the subject of a consent for severance but was a townhouse site on a concession lot. (Halloway Holdings Limited, Ontario Regulation 1017/75, filed December 19, 1975.)

Case No. 2

Serviced land was sold to a builder. The requirements for exemption under Section 4(k) were met except for the fact that the land was not part of a subdivision plan nor the subject of a consent for severance but was an isolated block. (Glen Leven Properties Limited, Ontario Regulation 649/76, filed August 6, 1976.)

Relief from Section 2(1) Tax Granted to Remove Impediments to Development

Case No. 3

A builder corporation took over the construction of a condominium apartment building that a first builder had abandoned. The exemption under Section 4(g) was not available upon the second builder's sales to residential buyers because the building had been 90% completed at the time of its acquisition from the first builder. (East Marstock Lands Limited, Ontario Regulation 80/75, filed February 5, 1975.)

Case No. 4

Due to the death of its principal organizer and guarantor of its loans, a developer company could not complete the servicing of land to the point necessary to qualify for an exemption under Section 4(k). The granting of an exemption, together with an undertaking by the transferee to complete servicing and development as a condition of a land transfer tax deferral, ensured that a large housing development would not be impeded. (Ronto Development Company, Ontario Regulation 340/76, filed April 15, 1976.)

Relief from Section 2(1) Tax
Granted to Relieve Hardship

Case No. 5

A company obtained a Final Order of Foreclosure after long delays. The amount of the Order, constituting the proceeds of disposition, included a large amount of mortgage interest and was far in excess of what the company would recover on the realty sale. (Avco Financial Services Limited, Order-in-Council 2093/76, dated July 21, 1976.)

Case No. 6

The executor of the estates of two members of a family was prevented from claiming a 100 per cent farm property reduction under Section 20(3) upon the disposition of farm land only because he had rented it outside the family for a few months before the sale. (Estates of Michael and Isabel Barnucz, Ontario Regulation 868/76, filed November 29, 1976.)

Relief from Section 2(2) Tax
Upon Dispositions to Non-Resident Persons

Case No. 7

A manufacturing corporation was on the verge of bankruptcy and jobs were about to be lost. The disposition of the corporation's land by way of the sale of all its outstanding shares to a non-resident corporation was exempted from the non-resident tax to save jobs. (Holmes Insulations Limited, Ontario Regulation 535/74, filed July 11, 1974.)

Case No. 8

The disposition of a commercial corporation's land by way of the sale of all its outstanding shares to two non-resident individuals was exempted from the non-resident tax on condition that the corporation would cease to be a non-resident by virtue of the purchasers ceasing to be non-residents within two years. (Timber Point Camps Limited, Ontario Regulation 155/76, filed February 17, 1976.)

Supplementary Comments

Cases 7 and 8 are exemptions under The Land Speculation Tax Act, 1974, but the tax exempted is that imposed by the Act on the sale of shares of a corporation. The tax is equivalent to the land transfer tax, is based on the same method of valuation, and is applicable only where the purchaser of the shares is a non-resident person within the meaning of The Land Transfer Tax Act, 1974. The Land Transfer Tax Act, 1974 levies tax only on the registration of transfers of land. Transfers of shares in corporations that own land would avoid this tax if it were not for the provisions of section 2(2) of The Land Speculation Tax Act, 1974. Thus, although included in The Land Speculation Tax Act, 1974, the tax described in cases 7 and 8 more appropriately relates to The Land

Transfer Tax Act, 1974. The principal tax in The Land Speculation Tax Act, 1974 is that imposed by section 2(1).

It has proved impossible to summarize the cases in which the Ministry has denied requests for exemption from the tax imposed by section 2(1) of The Land Speculation Tax Act, 1974. The Ministry of Revenue estimates that approximately 175 requests for exemption from land speculation tax were rejected. These requests were made mostly by telephone or in person to staff of the Succession Duty Branch or Legal Services Branch of the Ministry of Revenue. Specific records of these requests were not kept and the rejection of the request was usually in the nature of an intimation from the Ministry that the request for exemption was regarded as inappropriate or not likely to be granted. Although applicants so rejected were at liberty to proceed to apply formally to the Ministry for the exemption under discussion, few, if any, of them did so.

The preceding two paragraphs are the most accurate summary I can provide of the number of exemptions refused under The Land Speculation Tax Act, 1974 by the Ministry of Revenue.

G. Stoodley, Q.C.

APPENDIX 'F'

Ontario

The Hon. Mr. Justice J. David Cromarty
Chairman

J. Roderick Barr, Q.C.
Counsel

Nicholson D. McRae, Q.C.
Associate Counsel

L. J. Pelissero
Executive Secretary

Public Inquiry
Ronto Development Company

Room 322
145 Queen Street West
Toronto Ontario
M5H 2N9

June 27, 1977.

The Honourable Mr. Justice
J.D. Cromarty,
Judges' Chambers,
Osgoode Hall,
Queen Street West,
Toronto, Ontario.

Dear Mr. Commissioner:

Re: Public Inquiry - Ronto Development Company

Just before the close of the evidence on this Inquiry, I had a conversation with a representative of the news media who had been present that afternoon. He may have been there earlier during the Inquiry but I do not recall having seen him until that day.

Mr. McRae, the associate counsel to the Inquiry, told me that he had spoken with this man who appeared dissatisfied with the Inquiry. I, therefore, approached him to see whether he had something to add. He mentioned to me the $400,000.00 commission said to have been paid to Ernest Goodman Limited on the sale by Ronto to Wimpey and my first impression was that he was suggesting that this payment had, in fact, not been made.

When I asked him if this was his suggestion he answered me in a very vague fashion but I took it to be his theory that this money had been paid but had found its way into the hands of persons associated with the granting of the exemption under The Land Speculation Tax Act to Ronto Development Company.

Continued...

This man was disgruntled and taciturn and appeared to hold the view that the Inquiry was being ineptly conducted and, in particular, that "the answer" lay in this $400,000.00 item.

This man had not come forward to volunteer information in connection with the Inquiry at any time earlier and had failed to respond to repeated invitations by you Sir and by me, in which we asked any person having any information, or any likely line of Inquiry, to communicate with the Commission staff.

However, you directed that an investigation be made and I asked Corporal Campbell to do so. He has done so and has reported to me. I am enclosing his report on this investigation for your consideration.

It appears to me that Corporal Campbell has made a thorough investigation, that the $400,000.00 was, in fact paid, and that no portion of this has been paid to any person in any way associated with the granting of the exemption. May this report be filed as Exhibit 108?

Yours respectfully,

JRB:kr J.R. Barr (signed)

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